

MONTANA TRANSPORTATION COMMISSION

June 3, 2004 meeting

Holiday Inn SunSpree Resort ~ West Yellowstone, Montana

In attendance:

Shiell Anderson, Commission Chair; Nancy Espy, Commission Vice Chair; Kevin Howlett, Commissioner; Meredith Reiter, Commissioner; Dan Rice, Commissioner; Tim Reardon, MDT Chief Counsel; Dave Galt, MDT Director of Transportation (intermittently attending Aeronautics Board meeting); Sandra Straehl, MDT Rail, Transit & Planning Administrator; Joel Marshik, MDT Chief Engineer; Janice Weingart Brown, FHWA Division Administrator; and Mike Duman, Assistant FHWA Division Administrator.

Please note: the complete recorded minutes are available for review on the commission's website at http://www.mdt.state.mt.us/trans_comm/. You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary at (406) 444-7200 or ldemont@state.mt.us. Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

 *Indicates follow-up is needed*

Chairman Anderson called the meeting to order at 1:05pm and asked the commissioners and staff to introduce themselves to the delegation.

Agenda item 9: Speed limits

DELEGATION: Speed limit – St Ignatius

Marshik summarized the results of the engineering speed study. The current speed is 65 mph through town. The accident rate is 3.97 accidents per million vehicle miles traveled which is three times the state average. There was recently a fatality there, and there have been other fatalities in the past. The study yielded a recommendation of 55 mph.

Commissioner Howlett – we convened the Town of St. Ignatius, Lake County and the CSKT to look at these recommendations. I appreciate the department looking at the technical aspects of this. In looking at the social and political aspects of this, however, we would like a 45 mph speed limit in front of the Doug Allards operation where the intersection goes into St. Ignatius (Mountain View Drive), accelerating to 55 mph past the Mission Drive intersection. All three governments, who live and drive in this area, came to agreement that there needs to be this reduction in speed. It is very busy there, with lots of development, and there is a blind hill causing sight distance problems.

Commissioner Howlett introduced the chairman of the Confederated Salish and Kootenai (CSKT) Tribal Council, Fred Matt; Tribal Council member Ron Trahan; the mayor of St. Ignatius, John Connot; and a member of the City Council, Ray Jensen.

Chairman Matt stood and expressed his support of Commissioner Howlett's recommendation. He talked about the history of the request and how the need has increased over time.

Mayor John Connot stood in support of the tri-government position. St. Ignatius is expecting a 31 percent growth rate when the building moratorium is lifted following the sewer system expansion, likely rising to a 50 percent growth rate in ten years.

Commissioner Howlett said Director Galt has raised concern about the enforcement of a 45 mph speed limit. Mayor Connot said it is rare that all three governments come together in agreement; this is one of those instances, and the sheriff, police and tribal police and highway patrol intend to patrol and enforce this limit.

Tribal Councilman Trahan stood in support of the tri-government position and emphasized that safety is what they're looking for.

City Councilman Ray Jensen stood in support of the tri-government position.

Commissioner Howlett moved to adopt the recommendation of the three local governments:

- ?? Airport road to Mountain View Drive will be a 45 mph speed zone
- ?? Mountain View Drive to Mission Drive will be a 55 mph speed zone
- ?? South of Mission Drive will be the statutory 65 mph speed limit

Commissioner Espy seconded the motion. Chairman Anderson asked for discussion on the motion.

Commissioner Rice asked if the 45 mph zone is long enough. Mayor Connot explained that the Airport Road intersection will be removed as part of a future US 93 project. The new subdivisions will not be adjacent to the highway. Chairman Matt agreed. Councilman Trahan agreed. Commissioner Howlett confirmed that with the addition of turnbays and a wider road, the speed zone would be adequate.

Commissioner Espy expressed her appreciation for the three governments working together.

Chairman Anderson asked if the US 93 project would alleviate some of the traffic flow problems. Marshik confirmed that the problematic intersection would either be fixed then or as a separate safety project.

All five commissioners voted aye.

Speed limit – US 287 (Ennis North)

Ted Coffman, Madison County Commissioner, requested the zones be expanded as per the diagram he provided. Commissioner Espy moved to recommend the changes proposed by Madison County; Commissioner Reiter seconded. All present voted aye.

Speed limit – Secondary 512 (Hall East) and Shiloh Interchange connector route

Commissioner Reiter moved to accept staff recommendations for both speed zones; Commissioner Rice seconded the motion. All present voted aye.

Agenda item 1: East Bozeman Interchange wetland mitigation

Larry Urban, MDT wetland specialist, displayed an aerial photograph of the intersection in question. MDT owns 15 acres and had entered into a contract with Raja and Associates to lease them some land so that they could rebuild Spring Creek and provide MDT with 4.4 acres of wetland mitigation credits. However, that entity went bankrupt after starting construction in 1999.

We propose to allow MSU to design the proposed project and we will then let the work to contract. By having MSU do the design work, it will give the civil engineering students an opportunity to design wetlands as well as help us meet our obligation to provide 10 acres of wetland mitigation credit (an increased acreage over what was originally proposed) for projects in the Bozeman area.

MDT will be responsible for maintenance after completion. It was clarified that the lease and agreement had been expunged. There was no exchange of money between MDT and the contractor.

Commissioner Rice moved to adopt staff recommendation to approve this project and move it into the program to fulfill our wetland mitigation commitments in the Bozeman area at a cost of approximately \$295,000; Commissioner Espy seconded the motion. All present voted aye.

Agenda item 2: Enhancement projects on MDT right-of-way

Straehl described the projects being proposed for addition to the program:

- ?? *River St Walks-Superior* project in Mineral County
- ?? *S Central Bike/Ped Trl-Sidney* in Sidney
- ?? *Courthouse Landscape-Roundup* project in Musselshell County
- ?? *Madison St Br Bike/Ped - MSLA* project in Missoula
- ?? *Jackson St Sidewalks-Billings, Gabel Rd Bike/Ped Path-BLGS* and *Alkali Creek Bike/Ped-Billings* projects in Billings

Straehl noted that we expect the Community Transportation Enhancement (CTEP) Program to continue in the new federal transportation bill. If a project overruns the amount

described, actual construction of the project would likely be put on hold until a future allocation of funds (in the next fiscal year) could be assigned to the project.

All these projects have some connection with state-owned right-of-way – it may be a small connection such as a trail crossing the right-of-way.

Straehl was asked to provide some background about the Community Transportation Enhancement (CTEP) Program. She explained that, as part of the 1991 legislation known as ISTEA, Senator Moinahan instituted a program whereby the transportation system “paid back” for alleged destruction of urban centers. The program allows for funding to go directly to local governments. Historic preservation is one of the allowed categories, provided the facility to be preserved is within the viewshed of a Federal-aid highway. Straehl said the local governments have done a good job of choosing how these monies are to be spent. This program is well-liked and unlikely to be removed or even modified in future legislation.

Commissioner Reiter asked if the paths on both sides of Alkali Creek Road would limit the potential for expansion of the road to more than two lanes. He did indicate there is a definite need for the project, given that there is residential area on both sides of the road, as well as a school in the vicinity.

Commissioner Espy moved to adopt staff recommendation to add these CTEP projects to the program; Commissioner Howlett seconded the motion. All five commissioners voted aye.

Agenda item 3: Crow Reservation Wetland Study

Urban said the Tribe has come up with a list of about 22 sites for potential wetland mitigation. The purpose of the feasibility study project would be to study the sites, and rate and rank them, similar to how we respond to requests from private landowners who offer land for wetland mitigation projects.

Commissioner Howlett moved to accept staff’s recommendation to fund preliminary engineering with \$50,000 (\$5,000 for MDT staff and \$45,000 for consultant cost; Commissioner Rice seconded the motion. All five commissioners voted aye.

Agenda item 4: City of Billings construction projects on state systems

These projects, although on state highway systems, were funded entirely by the city of Billings. Although there is a requirement in state law for local governments to present all projects on Federal-aid routes to the commission for approval, it doesn’t always happen. Straehl said we are going to work with the district administrators to see if we can develop a more systematic method for gathering this information in advance of the actions possibly on a quarterly basis.

Straehl asked that the following be added to staff recommendation: “...and that all new signals meet warrants and are justified.” Our traffic engineers have not studied two of the requests, namely the intersection of Rimrock and Shiloh Roads, and Rimrock and Zimmerman Trail.

Bruce Barrett, Billings District Administrator, explained the law doesn’t differentiate between Federal-aid routes maintained by the state versus routes maintained by local government. Where the Federal-aid route is maintained by the city and projects are paid for with city funds, there has historically been resistance to having to bring those projects to the commission for approval. The city of Billings has experienced significant staff turnover in recent years, which is part of the reason this list of projects – some of which are already constructed – is now being brought before the commission for approval.

The city builds to a different standard than the state does, although we have adopted their standards for urban routes to promote consistency. What we look for in reviewing their work is anything that could cause us liability problems.

Commissioner Howlett asked if there is a need to modify the statute. Barrett said the previous director, Marvin Dye, wrote to the League of Cities and Towns to request their adherence to the statute and to go on record that MDT would not oppose their approaching the legislature about modifying the statute.

Chairman Anderson asked about requiring the cities to indemnify the state from projects not yet approved by the commission. Reardon said it would be possible. Straehl proposed first using her staff, given they have working relationships with the urban areas, to help manage this. => Straehl will bring discussion materials to a future commission meeting.

Commissioner Rice moved to accept staff recommendation to approve the project list and delegate its authority to let, award and administer the contracts for projects yet to be completed to the city of Billings pending concurrence by MDT's chief engineer, and that all new signals meet warrants and are justified; Commissioner Espy seconded the motion. All five commissioners voted aye.

Miscellaneous

Jack Carlson, a West Yellowstone council member, welcomed the commission and thanked them for their work and their financial contribution to the community.

Agenda item 10: Collection of revenue owed to MDT for lost permits

Galt described how, in the 1990s, we changed the way we do overweight permits, from a basic flat fee (which didn't take into consideration weight and damage) to a complex fee (which took into account weight and distance). This amounted to an overweight tax and it caused a lot of stress to carriers because they were used to being able to self-issue permits and because of the increased cost of obtaining permits. There was quite a political turmoil in 1993 when we put this in place. We made the industry an offer they couldn't refuse: we would issue a carrier a blank book of permits, and they then had a ceiling for what they could issue those permits for. To address the risk in the system, the contract requires a \$500 fee for any lost or permits that were unaccounted for.

The alternatives to doing business that way were for us to have a permit office open 24-7 in Helena, which was cost-prohibitive, or an Internet system. We now have an Internet system up and running and notified the industry a year ago that we would be discontinuing the self-issuing permit system. At the time this agenda item was put together, we had about \$200,000 owed. Since that time, a lot of permits have been found and costs were reduced. As of today, we have two companies (Riverside Construction and Peterson Trucking) left that owe us a total of \$8,500. We have notified them that we will revoke their permit privileges if payment is not made. Ample time will be allowed for them to respond.

This was an information item and no action was required.

Discussion item

Galt said there was a project in Helena on North Montana from the north end of the Treasure State subdivision out to Forestvale road, near Rossiter School. The project is substantially complete. A bike path was included in the project and connects two large subdivisions to a trail system that leads to the school. The kids and adults have been using it since the pavement cooled down. I went to a parent-teacher meeting and was inundated with praise. I would like to read some of the letters I received into the record from students, the Rossiter Parent Council, and others. It has made a huge difference in the number of kids riding their bikes.

I will try to get information emailed to Commissioners Reiter and Rice in advance of the June 9 Fish, Wildlife and Parks Commission meeting.

Agenda item 5: Railroad crossing project northeast of Fairmont Hot Springs

This is a stand-alone project to improve a railroad crossing on Secondary 441 just west of its junction with Interstate 90.

Commissioner Rice moved to accept staff's recommendation to add this project to the program with discretionary funding from the district in the amount of \$27,200; Commissioner Espy seconded the motion. All five commissioners voted aye.

Agenda item 6: Vegetation Management Program

Straehl distributed a revised version of the program write-up. This program has been under discussion for several years. It will allow us to do the necessary post-construction revegetation work that's required before stormwater pollution permit requirements are lifted.

It would allow us to enter into term contracts at the district level based on unit costs. A low level of environmental review, namely the categorical exclusion, will be used. The funding will taken off the top of the Surface Transportation Program before distribution, which means it will not be subject to financial districting laws.

Addressing revegetation during construction will be addressed as a separate issue.

This would allow contracts to be closed out more quickly. It would help preserve state money by using Federal-aid money to finance the work. It would also help relieve the pressure on state workers.

Duman explained that this would provide a mechanism for quicker response to large storm events. We have hours to respond before regulatory agencies may write us up for violations.

=> We will report on the pilot program next year.

Commissioner Rice moved to accept staff recommendation to fund a statewide pilot project in the amount of \$600,000; Commissioner Reiter seconded the motion. All five commissioners voted aye.

Agenda item 7: Transit Section 5310 Capital Assistance Program

This is a follow-up item from last meeting. Straehl explained that indirect cost is a requirement of state law. An indirect cost of 13.44 percent is assessed per project and the reimbursement we receive from the federal government is put back into the program to keep it whole.

Commissioner Howlett asked how this would work on the reservations where there are two administrative agencies involved, both assessing indirect costs. He was concerned that close to 50 percent of funds could be attributed to indirect costs and nothing would get done.

=> More discussion may be needed on the subject of indirect cost.

Commissioner Howlett expressed his concern about the needs on the reservations and the need to understand what is causing a lack of participation by tribal entities. Tribal members have participated in the workshops but only one in the last two years moved forward to submit an application. Straehl wondered if the 20 percent match was an issue and whether another Federal-aid source may be available to use as a match.

Commissioner Espy suggested sending a questionnaire to the tribal councils to ask how the information is being transmitted after a workshop. Straehl said Commissioner Howlett has committed to seeking the information. Commissioner Howlett said he expects to have a discussion during WASHTO about highways and projects.

Commissioner Reiter moved to accept staff recommendation to approve the Section 5310 capital assistance expenditures as shown in attachment A in the agenda materials in accordance with the authority provided by MCA 60-2-110; Commissioner Espy seconded the motion. All five commissioners voted aye.

Agenda item 8: FTA Section 5311 Capital Assistance Program

The Butte trolley has been downsized and the local government has committed to a larger cost participation. The \$45,000 saved by downsizing the Butte trolley will be reserved for rehabilitation needs on the existing fleet held by 5311 providers. Straehl noted that there were no unfunded applications in this program cycle.

Gary Keeler, manager of the Butte transit system, expressed his appreciation for Sandy's staff in working with them. He said Butte is committing \$50,000 toward operating costs.

Commissioner Howlett moved to accept staff recommendation to approve the Section 5311 capital assistance expenditures as shown in attachment A; Commissioner Espy seconded the motion. All five commissioners voted aye.

Agenda item 11: Amend access control resolution

[RF 77(20) East Helena – East and West]

Last meeting, the commission asked for more restrictive language in the access control resolution. Marshik outlined the new language in the resolution. Commissioner Rice moved to adopt staff's recommendation to approve the access control resolution as presented; Commissioner Reiter seconded the motion. All five commissioners voted aye.

Agenda item 12: Letting lists

Chief Engineer Joel Marshik presented letting lists for May, June, July, August and September. Marshik requested the commission delegate authority to him to award a project scheduled for letting in July if the bid is clean and reasonable. The project is entitled *Swamp Creek-East-Test Berms* [NH 1-1(73)49] and accelerating a contract award is important to expediting the work. Commissioner Espy moved to delegate authority to MDT Chief Engineer Joel Marshik to award project NH 1-1(73)49; Commissioner Rice seconded the motion. All five commissioners voted aye.

Commissioner Reiter moved to accept the letting lists; Commissioner Espy seconded the motion. All five commissioners voted aye.

Agenda item 13: Certificates of completion for March 2004

Commissioner Howlett moved to accept the certificates of completion for March 2004; Commissioner Rice seconded the motion. All five commissioners voted aye.

Agenda item 14: Work/change orders

The amount is negative because it includes the large savings yielded by the value-engineering proposal on the *Battlefield East* project. Commissioner Reiter commended both the department and the contractor, Oftedal, for their work on this.

Commissioner Reiter moved to approve the change orders presented; Commissioner Espy seconded the motion. All five commissioners voted aye.

Agenda item 15: Liquidated damages

Two contractors overran contract time and incurred liquidated damages, and neither is in dispute.

?? \$14,544 assessed on IM 0002(501) *Bridge deck improvements/Great Falls* (Cop Construction)

?? \$69,090 assessed on IM 15-1(91)17 *Lima-Red Rock* (JTL Group, Inc.)

No action was taken therefore the liquidated damages assessment will stand.

Agenda item 16: Commission discussion and public comment

=> Straehl suggested deferring the discussion on urban funding proposals until reauthorization of the federal transportation bill. Congressman Rehberg was identified today as a member of the conference committee, with Senator Baucus on the Senate side representing the Finance Committee. However, the problem remains that there is no money. We need to put things in the deep freeze until we know more.

Commissioner Rice said there is the potential for some epoxy pavement marking to come before the commission. Rice said he has been a personal friend of the complainant for years and wanted the commission to hear it from him in order to prevent any appearance of impropriety.

Agenda item 17: Schedule next commission meeting

The next meeting will be August 11 in Baker. A dinner will be held August 10.

The meeting adjourned at 4:57pm.

Shiell Anderson, Chairman
Montana Transportation Commission

David A. Galt, Director
Montana Department of Transportation

Lorelle Demont, Secretary
Montana Transportation Commission